

MONO COUNTY PLANNING COMMISSION

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SPECIAL MEETING MINUTES

January 12, 2012
(Adopted March 8, 2012)

COMMISSIONERS PRESENT: Scott Bush, Chris Lizza, Mary Pipersky, Dan Roberts, Steve Shipley

STAFF PRESENT: Scott Burns, CDD director; Gerry Le Francois, principal planner; Courtney Weiche, associate planner; Heather deBethizy, assistant planner; Stacey Simon, assistant county counsel; Garrett Higerd, public works; C.D. Ritter, commission secretary.

1. **CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Chair Steve Shipley called the meeting to order at 5:04 p.m. at the Crowley Lake Community Center and bypassed the pledge of allegiance due to no flag.
2. **PUBLIC COMMENT:** None.
3. **MEETING MINUTES:** December 8, 2011.

MOTION: Adopt minutes of Dec. 8, 2011, as presented. (Bush/Pipersky. Ayes: 5-0.)

4. **PUBLIC HEARINGS:**

A. VARIANCE 11-003/Newland. The proposal is to allow future construction of an on-site manager's residence for Lake Front Cabins, within required 10' side- and rear-yard setbacks. Project is located at 32 Brenner Street in June Lake (APN 015-073-025). Property is ~.50 acre and has a land use *designation of Multi-Family Residence, High*. *The project qualifies as a CEQA exemption. Staff: Courtney Weiche*

Courtney Weiche reviewed the proposal. The Newlands were present at the meeting.

OPEN PUBLIC COMMENT: None. CLOSE PUBLIC COMMENT.

DISCUSSION: Commissioner Lizza asked about avoiding a possibility of transient rental. Scott Burns indicated the project description specified a manager's unit with no conditions on it, so it would always be for that use. Lizza had concerns about a new owner converting it. Newland indicated it would be integrated with the office to avoid back and forth across the street. No security exists for office now. The ground floor is laundry and storage, not conducive to a living unit. Commissioner Shipley asked if another cabin would be built with the same parameters? Burns cited limitations due to conditions on variance, some sort of nexus, unique circumstances.

MOTION: Approve Variance 11-003 as presented. (Roberts/Bush. Ayes: 5-0.)

B. NEGATIVE DECLARATION & USE PERMIT 11-002/Vista Towers LLC. Use Permit Application 11-002/Vista Towers LLC Telecommunications Facility would allow for the development, operation, and maintenance of a wireless telecommunications facility on the west side of Hilton Creek Trail road (APN 060-110-002), between the communities of Crowley Lake and McGee Creek. The project consists of a 40' x 60' lease area with a 60' monopine or monopole, designed for three future carriers, surrounded with a 6' block wall. Within the lease area, three equipment shelters, a propane tank, and standby generator are proposed. The property is owned by Los Angeles Department of Water and Power, and the land use designation is Open Space (OS). In accordance with CEQA guidelines, a Negative

DISTRICT #1
COMMISSIONER
Mary Pipersky

DISTRICT #2
COMMISSIONER
Steve Shipley

DISTRICT #3
COMMISSIONER
Daniel Roberts

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Chris Lizza

Declaration has been prepared and determined that the above project will not have a significant effect on the environment. *Staff: Heather deBethizy*

Heather deBethizy introduced applicant Robert MacLauchlan. Stacey Simon reminded attendees of the limitation of considering health effects of associated radiofrequency (RF), which is preempted by federal law (Telecommunications Act of 1996) and would be subject to challenge and reversal. Such comments are OK, but cannot be considered by commission.

DeBethizy summarized features of the project and noted option A = monopine, option B = monopole. Raptor spikes are more effective on a monopole, which is staff's recommendation. Two mitigations are part of the negative declaration: 1) The proposed project activities, including any grading, vegetation removal, and construction, shall not take place during the Round Valley Deer Herd spring and fall migration periods April 1 to June 1 and October 1 to November 30; and 2) Condition #7, project activities shall not take place during the breeding bird season (from February 1 through September 15), except in compliance with items outlined in Condition #7. All photo simulations were reviewed by third parties and included in deBethizy's presentation.

Public comment concerns followed by staff response): 1) Generator noise? – Complies with noise standards, operating only if power outage is less than eight hours; 2) Access road? – Most suitable due to revegetation and location, least steep; 3) Property values – Not conclusive; 4) Increase wall height to shield project? – Six feet is standard wall height, plus it's in a depression; and 5) LADWP's three comments – Added Condition #23.

The California Department of Fish and Game (CDFG) letter addressed effectiveness of raptor perches. After clarification by County staff on power lines and other existing perches, CDFG agreed it was unlikely habitat for sage grouse. The biological impact was changed to less than significant. Additional language was added to Condition #13 to requiring raptor spikes to be approved by biologist and CDFG staff. If the project is approved, construction could occur late summer.

Commissioner Shipley questioned evidence of migration corridors or leks. DeBethizy stated it's a known mule deer migration area, but not desirable habitat for sage grouse. Reasons for the undesirable existing habitat include numerous power poles with no raptor deterrents, the closest lek is across the highway three to four miles away, and others outlined in the biological report.

Shipley wondered why the bird requirement under Condition #7 is included in the project conditions. Does applicant have to mitigate for birds? Scott Burns responded that it's included in the Negative Declaration as a mitigation measure to reduce the impact to less than significant on biological species. Shipley did not recall this mitigation measure on other projects seen by the Planning Commission. DeBethizy noted that it was also in the Whitmore Track project that commission approved, and a biologist will be hired for construction of that project this summer. It's a CDFG-recommended mitigation measure and state law. It does require the applicant to pay for a biologist if he wishes to construct this summer.

Commissioner Lizza asked how far willows and Hilton Creek are from the project. 800'-900'. The LADWP boundary line is by the creek.

Commissioner Pipersky mentioned mitigation of "migrating birds," not sage grouse. DeBethizy noted it is a mitigation measure recommended by CDFG and state law. Dr. Jim Paulus conducted a biological and botanical study for the Negative Declaration and worked with CDFG staff for his final report.

Burns reminded that the document is a Negative Declaration. Mono is obligated to respond if a request to mitigate is based on expert opinion. Mono must have concurrence of applicant, or else conduct a more thorough environmental review.

Applicant MacLauchlan noted that bird nesting is an issue on almost all sites, yet unlikely in this area. Although he will hire a biologist, he thought a bird study probably would not hinder the project.

Pipersky asked about raptor spikes. DeBethizy cited no evidence of effectiveness or ineffectiveness with raptor spikes on a monopine, and staff could not say whether raptor spikes would work. There is evidence, however, that raptor spikes work on monopoles.

DeBethizy noted that habitat is already diminished.

OPEN PUBLIC COMMENT: Robert MacLauchlan was asked about a net with spikes covering the monopine. No guarantee exists that it would be raptor proof. He was leery of saying monopine with net would work and look good. He thought a pole was a better option.

Fred Stump, representing emergency services, talked about the growing role of wireless communication. Paramedics are required to file wireless reports, so must transfer information to electronic format later. California Highway Patrol (CHP) and Bureau of Land Management (BLM) looking for violators need protection. Fire services and mapping are expanding. It's time to recognize a gap here. The role of wireless will only expand. He recommended a pole in a glacial moraine without trees, where numerous power poles already exist and its color would fade into the background. He did not perceive significant visual impact compared to that of the fire facility.

Milus Scruggs, property owner living close to project, might see the site. He preferred a pole, unless a tree was repainted regularly. The road, where it turns onto a glacial moraine, is serviced in wintertime, but not maintained now. The access road on LADWP property would not be plowed, so access would be by over-snow vehicle or get an agreement to maintain the road. Fence sits between impassable road and property with a gate. He found it amusing so much attention was paid to birds when USFS had demolished trees. People driving the road from parking lot up the hill for stream access end up in his yard. Maybe close road off at parking lot? Fred Stump indicated the road leads to LADWP gauging station, and USFS has an agreement with LADWP. Access road to site: Cal Fire has deferred requirements due to business industrial use. Scruggs wanted to have a gate eventually.

John Rawson, local resident, supported the project, citing its most-favorable location, not close to private property, high up on a hill, and pole would disappear [from view]. He has never seen sage grouse there while hiking, and more deer have appeared in his yard than there. He urged project support.

Virginia Rawson, local resident, requested support. Raptors already sit on power poles, the road was leveled by loaders, and the historic dog-walking area does not have a lot of wildlife. Access road would make great fire break for better accessibility.

Windsor Czeschin, site owner of previous denial, favors cell service at this site. He thought the tower should be a monopine with same features as theirs. Insist on multiple-site coverage tests at each pole location to make sure coverage exists for entire Crowley area from all pole antenna locations.

Robert MacLauchlan, applicant, did the best he could from computer modeling. Plateau is a little higher than town, and some patchy coverage exists in a minor area. A full test would be a difficult proposition. Denied applicant Incline Partners had two dead spots on highway. Covering 90% would be better. Otherwise, would need greater tower height. All carriers have different frequency levels, different band waves that bend well.

Jessica Mascarenas, closest resident, definitely supports project, with monopine. **CLOSE PUBLIC COMMENT.**

DISCUSSION: Commissioners discussed monopine vs. monopole.

Shipley: Pine tree would stand out, but it's a tree, whereas a pole would be less visible but still a pole. No trees exist on a glacial moraine. A monopine would be alone, drawing attention. Everything blends into background below silhouette of mountains. Each option has perfectly good features.

Lizza: A spike net would give a different image.

Scott Burns noted that the monopine includes raptor proofing as part of the project circulated.

Pipersky: A pole in the interest of availability to community, which has been waiting patiently.

Bush: Pole would disappear, but a pine tree with tinsel would not.

Roberts: If no other trees are around, a monopine would draw the eye, create greater visual impact.

Shipley: Crowley is littered with phone poles that disappear [from view]. High-tension wires in front of pole would be seen first. Go with pole because of location where it would meld right in with telephone poles. A spike net looks like cobwebs on a pine tree, which would be subject to 100 mph winds.

Bush: Aesthetics were the driving force on the Czeschin lot, but only a few people are here tonight.

MOTION: Approve Use Permit 11-002 as presented, with findings on p. 18, choosing option B (monopole) and adjustments to Condition #13 to reflect monopole. (Bush/Pipersky. Ayes: 5-0.)

6. WORKSHOP: No items.

7. REPORTS:

A. DIRECTOR: 1) Mammoth Pacific I: One lengthy comment letter led to substantial adjustments to environmental document and recirculation for 30-day review; 2) New USFS facility: Use Permit to come; 3) Rock Creek Canyon: Revisit; 4) Digital 395: OK'ed by BOS, not yet certified by federal, Antelope Valley FPD site would have a node in AG designation, so would need Director Review permit; 5) FEMA flood maps: Out to Tri-Valley area; 6) Community planning efforts: Mono Basin; 7) Land tenure: Planning tool for boundary adjustments; and 8) General Plan update: Scheduled Feb. 7 at Mono Supervisors meeting.

B. COMMISSIONERS: Lizza inquired about receiving information outside the formal process; e.g., geothermal reps called to offer him a personal tour. Ethics seem to suggest it's inappropriate. Stacey Simon indicated the law is not black and white, but the best practice is to avoid. She suggested scheduling a site tour on an agenda and asking the person to attend. Commission is a quasi-adjudicatory body, not as strict as a court of law. However, case law provides no guidance. Bush, who also got calls, viewed them as lobbying. Shipley received calls from opponents, but avoided conflict.

8. ADJOURN at 7:27 p.m. to regular meeting February 9, 2012, in Bridgeport

Prepared by C.D. Ritter, commission secretary